

**IN THE HIGH COURT OF HIMACHAL PRADESH,  
SHIMLA**

**Cr. Appeal No. 357 of 1993.**

**Date of decision: 14-12-2007.**

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State of H.P.

Appellant.

Versus-

Gorkh Ram and others.

Respondents.

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Coram

**Hon'ble Mr. Justice Surjit Singh, J.**  
**Hon'ble Mr. Justice Surinder Singh, J.**

**Whether approved for reporting<sup>1</sup>? No.**

For the appellant : Mr. Som Dutt Vasudeva, Additional  
Advocate General with Mr. D.S.  
Nainta, Deputy Advocate General.

For the respondents: Shri Bhupinder Gupta, Senior Advocate  
with Mr. N.K. Thakur, Advocate.

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Surjit Singh, J. (oral).

Heard and gone through the record. State is aggrieved by the judgment of the trial Court whereby the respondents were sent up for trial for allegedly forging two wills, one dated 7-4-1983 Exhibit PW6/A and the other dated 16-10-1988 Exhibit PW5/A in the name of deceased Mahanti Devi, mother of Bakshi Ram (PW1) as also of respondents Gorkh Ram, Banto Ram and Dhani Ram. It was alleged that on will Exhibit PW6/A dated 7-4-1983, both the thumb impressions appearing in the will were of respondent Kisso Ram instead of deceased Mahanti, the alleged testatrix, as per the report of Finger Print Expert and thus it was established that the said will was a forged one. As regards the second will dated 16-10-1988, it is alleged that the said will cannot be said to be

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Whether reporters of the Local papers are allowed to see the judgment?

genuine because it purports to have been executed on 16-10-1988, whereas Mahanti Devi died on 12-10-1988.

Trial Court has acquitted all the respondents holding that the evidence on record shows that Mahanti Devi died either on 12<sup>th</sup> or 20<sup>th</sup> October, 1988 and that because the evidence on record leads to two inferences, one favouring the prosecution and the other favouring the respondents, the one favourable to the respondents has to be accepted, as per settled proposition of law. As regards the other will, the trial Court has observed that there is no evidence on record showing that Kisso Ram had put the thumb impression on the will, in place of that of Mahanti Devi.

We have gone through the record and heard learned Additional Advocate General. As regards the will dated 7-4-1983 Exhibit PW6/A, the opinion of the Finger Print Expert is that the purported thumb impression of the executant of the will is partly ink smudged and hence comparison is not possible. There is no evidence on record suggesting that the will is forged. Rather, the evidence suggests that Mahanti Devi executed a will on 7.4.1983.

As regards the will dated 16.10.1988 Exhibit PW5/A, the fact by which the same was sought to be proved as a forged document was that Mahanati Devi had died on 12-10-1988 while the will purports to have been executed by her on 16-10-1988. The thumb impression on the will has not been opined to be a forged one by the Finger Print Expert. The opinion of the Finger Print Expert is that the impression being ink smudged does not permit of comparison.

The respondents examined a witness, namely Jaswant Singh, an employee of the Forest Department, who proved an entry in the Register of Timber Distribution copy Exhibit DW2/A (wrongly marked as Exhibit PW2/A). The entry is to the effect that two trees of chil had been got

sanctioned by Bakshi Ram (PW1), one for the cremation of his mother Mahanti Devi and another for her Dharamshanti ceremony. As per entries in the said register, copy Exhibit DW2/A, two chits dated 21-10-1988 were received in the office for sanctioning two trees one for cremation which had taken place on 20.10.1988 and the other for Dharamshanati ceremony which was to take place on 29.10.1988. The entries negate the prosecution allegation that Mahanti Devi died on 12.10.1988.

For the foregoing reasons, we find no ground to interfere with the judgment of the trial Court. Appeal is dismissed.

(Surjit Singh)  
Judge.

(Surinder Singh)  
Judge.

December 14, 2007.  
(bm)